

# OPINION SURVEYS: WHAT CONSUMERS HAVE TO SAY ABOUT INFORMATION PRIVACY

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## HEARING BEFORE THE SUBCOMMITTEE ON COMMERCE, TRADE AND CONSUMER PROTECTION OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS

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## OPINION SURVEYS: WHAT CONSUMERS HAVE TO SAY ABOUT INFORMATION PRIVACY

TUESDAY, MAY 8, 2001

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
SUBCOMMITTEE ON COMMERCE, TRADE,  
AND CONSUMER PROTECTION,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 3 p.m., in room 2123, Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Shimkus, Bryant, Walden, Terry, Tauzin (ex officio), and Doyle.

Staff present: Ramsen Betfarhad, majority counsel; Mike O'Rielly, majority professional staff; Kelly Zerzan, majority counsel; Anthony Habib, legislative clerk; M. Bruce Gwinn, minority counsel.

Mr. STEARNS. I welcome you all to the Subcommittee on Commerce, Trade and Consumer Protection. This is the fourth in a series of hearings on Information Privacy. I thank all of you for attending this hearing this afternoon, especially our witnesses.

Today's witnesses include representatives of four major national polling organizations that have surveyed public opinion on the issue of information privacy. One such survey was just completed last week. We are also pleased to have Dr. Westin, a prominent researcher in the field of information privacy, who began his research and surveys on the issue over 30 years ago.

Credible and scientific public opinion surveys on multi-faceted public policy issues such as information privacy can be at times both instructive and perplexing. Still, at no time are surveys dispositive, nor should they be.

In reviewing the polling data, I realize that like most important things in life, there is more to the story being told by the data than a cursory first glance would suggest. Therefore, after reviewing the survey results, I found myself facing more questions rather than answers regarding Americans' views on information privacy.

I look to our witnesses to answer some of those questions, and maybe one or two questions on other mysteries of life, like how do you do a good jump shot.

I walk away with a somewhat puzzled, but concrete, conclusive feeling from some of these surveys. They suggest that most Americans are anxious about what they perceive to be a loss of control over the dissemination and use of their personal information. It seems that this anxiety has been exacerbated with the advent of

the Internet. Still, some of those same polls also indicate that different people mean different things when they talk about their information privacy and their anxieties.

As one of today's witnesses observes, for some Americans information privacy means anonymity. They want no information about them traced or disclosed in any circumstance. For others, information privacy means confidentiality. They are not comfortable letting information be passed along to third parties without permission. For many Americans, information privacy equals simply security. Yet, where poll results are seemingly clear and thus instructive is the fact that Americans are most anxious about the improper use of their personal information, when that improper use can lead to real harm. Those real harms, in turn, seem to be intimately related to Americans' information security concerns.

For example, polls indicate that the vast majority, 87 percent, fear financial loss through disclosure of their credit card information, while 80 percent of Americans fear that the Internet can be used to commit wide-scale fraud, and 70 percent are anxious about criminals or pranksters sending out computer viruses that alter or wipe out personal computer files.

In addition, the fact that Americans are particularly concerned about protecting their information privacy against government intrusions is consistent with the proposition that Americans are most anxious about their information privacy when they perceive a real harm attaching.

The survey results also seem to reflect a truism—different people think differently about the same issue. It seems that older Americans, women, parents and, most importantly, Internet novices, are more anxious about losing control over their personal information. There is an inverse correlation between time spent online and the increased willingness to engage in what is called “trusting behavior online.” Trusting behavior online includes buying and selling goods, banking, getting health information, communicating via email or instant messaging with strangers, joining support groups and making friends and dates online.

The surveys seem also to suggest that what we as Americans say in response to a survey question may be different from what we actually do. Two-thirds of American Internet users having expressed serious information privacy concerns have, nevertheless, engaged in at least one trusting activity online, such as purchasing a book online.

Moreover, while the majority of Americans have a negative visceral reaction to online tracking and profiling, a relatively few take steps to shield their identities. For example, one survey reports that only 1 in 10 Internet users has set his or her browser to reject “cookies.” This brings me to another observation.

Surveys suggest that Americans as a whole lack knowledge as to when, how and for what purpose information about them is collected and used. For example, according to one survey, 56 percent of Internet users do not know what a “cookie” is. Yet another survey reports that 48 percent of Americans who regularly surf the World-Wide-Web admit to paying little or no attention to matters such as online tracking and profiling.

And, finally, one of the more interesting survey results is that as most Americans are anxious about the loss of control over their personal information, they want rules, but they reject the notion that the Government and/or Internet companies are the best stewards of their personal information privacy.

When asked who would do the best job setting those rules, 50 percent said Internet users themselves would be best adept at setting those rules, while only 24 percent said the Federal Government, and 18 percent said Internet companies would be best adept at setting those rules.

Another survey registered some 71 percent of Internet users saying they themselves, rather than the Government or online businesses, would have the most say over how Internet companies track Web activities.

My colleagues, if the public opinion poll suggests one thing definitely, it is that the American public consumer, with the issues of information privacy, is as complex as the issue is itself. So, I look forward to the witnesses' testimony, and the gentleman from Pennsylvania, Mr. Doyle, is recognized for an opening comment, as Ranking Member.

Mr. DOYLE. Thank you, Mr. Chairman. I am happy to join my friend here on the panel. Mr. Chairman, I would ask unanimous consent that the opening statement of Mr. Towns be included.

Mr. STEARNS. Without objection, so ordered.

Mr. DOYLE. Thank you, Mr. Chairman. I want to thank you for convening today's hearing providing us insight as to what American consumers are saying about their information privacy. I want to thank our invited witnesses for taking the time this afternoon to share with us the results of these efforts.

I have received a good deal of mail from my constituents concerning information privacy issues, some expressing concern that the Government is not doing enough to protect personal information, and others advocating that the Government is doing too much. But regardless of their particular opinion on the issue, the bottom line is, the majority of the contact I receive sends a clear message that people in Pennsylvania are very concerned about what happens to and with their personal information, no matter if they are on- or off-line or if the Government or a private entity is managing the affairs.

I can tell you that as a consumer I am concerned about the extent of information on my family's Internet usage and how that is gathered through the use of cookies, and by whom that information is used.

Establishing guidelines and limits of information usage and ensuring proper enforcement presents significant challenges on a national scale, especially considering the varying degrees the general populace feels comfortable allowing the Government or industry to establish regulations related to information privacy.

Additionally, concerns about private health information online or off remains very critical to most people and the Nation. Perhaps most telling is the statistic Mr. Rainie of the Pew Internet and Life Project gives us. Eighty-five percent of those who seek health information online are concerned that an insurance company may raise

their rates or deny them coverage because of the health sites they have visited. Of that, 72 percent are very concerned this may occur.

Without a doubt, protection from discrimination based on personal health information is a great concern to many Americans. That is why many of us have supported the Genetic Nondiscrimination and Health Insurance and Employment Act, H.R. 602, again this session, and will continue to do so until this important bill is signed into law.

Many of my colleagues on this committee and 229 Members of Congress support this legislation. No person should be denied coverage or forced to pay higher premiums because they are genetically predisposed to develop a certain health condition. Entities that compile such information while consumers are online must be held accountable for such actions.

My colleagues, I look forward to the information that our panel of witnesses will provide us today. I think it will come as no surprise that the American public want to be secure online and want their Government to take the appropriate measures to ensure their desires are protected. Thank you, Mr. Chairman.

Mr. STEARNS. Thank my colleague. The gentleman from Nebraska, Mr. Terry.

Mr. TERRY. Pass, Mr. Chairman.

Mr. STEARNS. The gentleman from Illinois, Mr. Shimkus, is recognized.

Mr. SHIMKUS. Thank you, Mr. Chairman. I, too, appreciate you having this hearing. I just quote Diana DeGette, you know, the public, the individuals have a hard time understanding the benefit we have through sharing information as much as some individual folks who don't understand the benefits of holding classified or important information to themselves.

The scary thing about going into privacy is it is kind of like opening Pandora's Box because there are going to be so many conflicting concerns and emotions involved. Where do you start? How do you finish? Nobody will be satisfied. And it is into this muddle mess that the Chairman is venturing, and I commend him because it is, as I think we are going to find out from the testimony today, really a pressing concern and something we need to get our hands around, reluctantly probably from many corners.

So, thank you for taking the time. Your testimony is very, very important, and I look forward to hearing your testimony and asking questions. And I yield back my time, Mr. Chairman. Thank you.

Mr. STEARNS. I thank my colleague. We will now hear from our panel: Mr. Harrison Lee Rainie, Director of Pew Internet & American Life Project; Mr. Humphrey Taylor, Chairman of The Harris Poll, Harris Interactive; Dr. Alan Westin, Professor Emeritus, Columbia University, President, Privacy and American Business; Dr. Newport, Editor-in-Chief, Gallup Poll, and Dr. Sandra Bauman, Vice President of Marketing and Business Development, the Wirthlin Worldwide Group. I want to thank all of you for your attendance here, and we will start from my left and go to my right and, Mr. Rainie, we will have your opening statement.



**STATEMENTS OF LEE RAINIE, DIRECTOR, PEW INTERNET & AMERICAN LIFE PROJECT; HUMPHREY TAYLOR, CHAIRMAN, THE HARRIS POLL, HARRIS INTERACTIVE; ALAN F. WESTIN, PROFESSOR EMERITUS, COLUMBIA UNIVERSITY, PRESIDENT, PRIVACY AND AMERICAN BUSINESS; FRANK NEWPORT, EDITOR-IN-CHIEF, GALLUP POLL; AND SANDRA BAUMAN, VICE PRESIDENT, MARKETING AND BUSINESS DEVELOPMENT, WIRTHLIN WORLDWIDE**

Mr. RAINIE. Thank you. Chairman Stearns, honorable members of the subcommittee, it is an honor for the Pew Internet & American Life Project to be asked to testify at this important hearing. The project is an independent, nonpartisan, research operation created to examine the social impact of the Internet with a grant from the Pew Charitable Trusts. We have no agenda except analytical research.

Our surveys show that Americans with Internet access would like the presumption of privacy when they are online, and they would like to be in control of when pieces of their identity are given out. If they could craft a Golden Rule for the Internet, it would be: "Nobody should know what I do on the Web or anything else about me unless I say so."

Not surprisingly, these Americans have great concerns about their privacy being compromised, but it is also clear that different people mean different things when they are talking about privacy. For some, privacy means absolute anonymity; for others, it means absolute confidentiality. They are comfortable letting some Web-based organizations know about them, but they do not want that information passed along to third parties without their permission. And for others, privacy means security; More than two-thirds of Internet users worry that hackers will steal their credit card information.

Americans are most anxious, of course, about highly sensitive information that might be used to cause them harm. For instance, most Internet users fear insurance companies learning about their searches for medical information and perhaps changing their insurance status or canceling their insurance. Many fear their employers might find out about their health searches and worry how that would affect their job status.

At the same time they express anxiety about their privacy, Internet users do a striking number of intimate and trusting things online. More than two-thirds of those who have serious privacy concerns have done at least one of the things that is on the chart to your right. It starts in the upper, left-hand corner with seeking medical information, using credit cards for online purchases, seeking financial information, making travel reservations. About a third of Internet users have customized Web sites or have gotten registration for email alerts on various subjects including news, health concerns, weather, and even horoscopes. Some have responded to email from strangers, some have participated by giving their full name and discussing both medical problems and personal problems in online support groups, and some have gone to dating sites.

To some degree then, there is a gap between Internet users expressed fears and their actual behavior. Perhaps one of the reasons

for that apparent contradiction is that few Internet users have ever had a serious problem online. Another reason is that the majority of Internet users do not know if, or how, they are being tracked. Most feel they are anonymous online unless they take affirmative steps to disclose information about themselves. The majority, 56 percent, of Internet users do not know what a “cookie” is. They don’t know the basic mechanics of how they are tracked and profiled through the use of cookies, and they don’t know this is going on almost all of the time they have access to the Web.

One useful way to measure the gap between Internet users’ attitudes and their behaviors is to look at the privacy protection steps they have taken, and that is on the next chart before you. If you compare this chart, the privacy protection steps they have taken, to the previous one, you will see that Internet users are much less likely to take privacy protection steps than they are to do things online where significant pieces of information about them are disclosed.

The most serious Internet users, of course, know how to lie to protect their identity. They have set up secondary email accounts. Some of them, a pretty small percentage, know how to use encryption to protect their email in anonymizing technology, but it is a very small number. These tools are not being used by the vast majority of Internet users.

Even though Internet users have fears about their online privacy, these sentiments do not translate into a universal yearning for anonymity. In fact, almost two-thirds of them are comfortable with disclosing information under the terms of the basic Information Age bargain: “I give you a piece of information about me in return for something of value from you.”

In addition, there is at least one other context in which the strong public concern about privacy is tempered by other fears, and that is when Americans express their anxiety about online crime. We found recently that 54 percent of all Americans and 60 percent of Internet users approve of the FBI or law enforcement agencies intercepting email sent to or from people suspected of criminal activities. At the same time, 62 percent of Americans say new laws should be written to make sure that ordinary citizens’ privacy is protected from government agency interceptions like the ones that they approve of.

It is also important to understand that concern about privacy is notably higher among some groups, especially parents, older Americans, women, African Americans, and Hispanics who have Internet access. In general, those who are most worried about privacy tend to be the ones who do the least online.

One of the biggest questions hanging over the Internet is whether today’s newcomers will eventually act like today’s veterans in their online behavior and their beliefs. The veteran population is dominated by young, upscale, well educated, white men. The Internet novice population looks a lot more like the rest of American because it has large numbers of women, African Americans, Hispanics, and those from modest economic circumstances.

As you can see from the final chart that is over here and in your material, veterans are much more likely to have exploited key features of the Internet. They are more likely to have clicked on ad-

vertisements. They are more likely to have purchased goods online. They are more likely even in their beliefs to be tolerant of tracking. They are more likely to have responded to emails from strangers. They are a more trusting crowd.

The issue, of course, is whether this large, newcomer group which is more concerned about privacy issues, will feel less anxious as time passes, and will do more activities online.

Several weeks ago, we wrapped up a survey of people that we also interviewed a year ago, so we have year-to-year comparisons of their behavior and their beliefs. Our preliminary analysis suggests that experience online significantly increases the commercial transactions of Internet users as well as their willingness to do trusting things online.

What are the policy implications of these findings? Internet users embrace principles of notice, choice, access to information about them, and security. Internet users would prefer a different tilt on the privacy playing field, one where the burden of effort is shifted away from them to be vigilant about managing their identity and toward those who want to collect information about them.

Internet users would profit from an industry-led education campaign that focuses on the mechanics and virtues of tracking. Companies would gain in users' eyes if they offered a clearer and more convincing explanation for the value of cookies, specifically how cookies enhance user experiences and how their use is tied to advertisers' support of much of the free content on the Web.

Finally, Internet users would appreciate more technology tools to give them a sense of control, or at least transparency, in letting them know what is happening to pieces of their identities as they move through Internet space. Thank you.

[The prepared statement of Lee Rainie follows:]

PREPARED STATEMENT OF LEE RAINIE, DIRECTOR, PEW INTERNET & AMERICAN LIFE PROJECT

Chairman Stearns and honorable members of the Subcommittee, it is a distinct honor for the Pew Internet & American Life Project to be asked to testify at this important hearing. I am the director of the project. It is an independent, non-partisan, center created to examine the social impact of the Internet with a grant from the Pew Charitable Trusts. We do not have an advocacy agenda. I will be talking today about our findings from several polls we conducted last year and in February this year that illustrate some fascinating cross currents on the privacy issue.

At the most fundamental level, Americans would like the presumption of privacy when they are online and they would like to be in control of when pieces of their identity are given out. This is the Information Age corollary to the classic American formulation of privacy: the right to be left alone. In the 21st Century, they want right to control their identities. If they could craft a Golden Rule of the Internet it would be: "Nobody should know what I do on the Web or anything else about me unless I say so."

Not surprisingly, these Americans have great concerns about their privacy being compromised. Still, it has become clear in our work related to this issue that different people mean different things when they are talking about privacy. The context of the questions and of the behavior needs to be understood in order to grasp how Americans feel about privacy. For instance, the definition of the term is very important. For some it means anonymity. About a quarter of Internet users say they want no information about them traced or disclosed in any circumstance.

For others, the concept of "privacy" means confidentiality. They are comfortable letting some Web sites or organizations know about them, but they do not want that information passed along to third parties without permission. And for others it means security; they are anxious that information about them is going to be discovered by hackers (68% of Internet users worry hackers will steal their credit card

information) or that important personal data will be inadvertently disclosed by a sloppy Web operation.

Americans also are most anxious about improper use of their information when it could do them real harm. Most Internet users fear insurance companies learning about their health and medical information searches and, as a result, changing or canceling insurance because of the kinds of Web sites that were visited. Many fear their employers might find out and that could affect their job status. And the vast majority fear financial loss through disclosure of their credit card information.

#### TRUSTING BEHAVIOR

At the same time they overwhelmingly express concern about their online privacy, American Internet users do a striking number of intimate and trusting things online. This is another aspect of how the context of privacy discussions is important to understand. More than two-thirds of Internet users who have serious privacy concerns have done at least one of these things online: purchase goods, make travel reservations, get health information, respond to email and instant messages from strangers, make friends and dates with people they have never met face-to-face, join support groups, place their calendars and address books online, and participate in online auctions.

Perhaps one of the reasons for that level of trustful behavior is that few Internet users have ever had a serious problem online. Just 4% of Internet users say they have felt threatened in some way while they were online; 3% say they have been cheated when they tried to buy something online; and fewer than 3% believe their credit card information has been stolen online. The irksome issue is “spam,” the online equivalent of junk mail, which makes about a third of Internet users unhappy to varying degrees. And about a quarter of Internet users say they have gotten an offensive email from a stranger.

Yet another reason for the high level of trusting activity online is the majority of Internet users do not know if or how they are being tracked. Most feel they are anonymous online unless they take affirmative steps to disclose information about themselves. This is enormously important, for instance, to some who seek health information, especially when they are conducting their searches in the privacy of their den or recreation room. Most are unaware, of course, that many of the health-related Web sites they visit plant cookies—small bits of encrypted information deposited on a computer’s hard drive so the online firm can track the user’s clicks through the site (and sometimes other sites) and to identify that computer the next time it visits the health site. Fully 56% of Internet users do not know what a cookie is; and just a tenth of Internet users have set their browsers to reject cookies.

In principle, Americans do not much like the idea of online tracking and profiling—by a two-to-one margin they say that tracking is an invasion of privacy, rather than a tool to help Web sites provide customized information to users. Still, relatively few take steps to shield their identities: 24% of Internet users have provided a fake name or personal information in order to avoid giving a Web site real information; 9% have used encryption to scramble their email; 5% have used “anonymizing” software that hides their computer identity from Web sites they visit.

#### INFORMATION TRANSACTIONS

Internet users’ preference for a presumption of privacy does not translate into a universal yearning for anonymity. In fact, most are comfortable with disclosing information under the terms of basic information transaction of the Internet age in which the bargain between a user and a Web site is: “I give you a piece of my identity in return for something of value from you.” Some 54% of Internet users have chosen to provide personal information in order to use a Web site and an additional 10% say would be willing to provide it under the right circumstances.

They want rules, but they reject the notion that the government and Internet companies are the best stewards of their personal privacy. Asked who would do the best job setting those rules, 50% of online Americans said Internet users’ themselves would be best, 24% said the federal government would be best; and 18% said Internet companies would be best.

And they are clear in their gut-level preference for what they would like the rule to be: 86% of Internet users say that Internet companies should ask people for permission to use their personal information. It is important to add that at the time we measured this sentiment last spring, we knew that most Internet users would not know the intricacies of the policy debate about the different kinds of options—opt-in or opt-out or robust-opt-out and everything in between. So, we did not pose our questions in a way that would sort out Americans’ views on these matters. We

know they express every way they can that they would like to control the process of information collection and disclosure.

Finally, there is also at least one other context in which the strong public concern about privacy is tempered by another fear: the anxiety about online crime. In a survey in February, we found that substantial majorities of Americans were concerned about every kind of online crime. As a result, 54% of all Americans (and 60% of Internet users) approve of the FBI or law enforcement agencies intercepting email over the Internet sent to and from people suspected of criminal activities; 34% of all Americans said they disapprove; 12% said they don't know. At the same time, 62% of Americans say new laws should be written to make sure that ordinary citizens' privacy is protected from government agencies.

#### DEMOGRAPHIC CONTEXT

Concerns about privacy are notably higher among some groups, especially Internet novices (those who first got online within the past six months), parents, older Americans, and women. In some cases, these fears also apply to online African-Americans, Hispanics, and those in households with modest income levels. These fears are often associated with lower participation in online life and some online activities, especially commercial transactions. For instance, one of our surveys suggested that those who had the strongest fears about privacy violations online were 20% less likely to have shared information with a Web site; 15% less likely to have used their credit cards online, and 15% less likely to have clicked on an ad.

One of the biggest questions hanging over the Internet is whether today's newcomers will eventually act like today's veterans in their online behavior and in their beliefs. The veteran population is dominated by young, upscale, well-educated, white men. They are much more likely than others to say they are unconcerned about their privacy being compromised in the online world and much more likely to spend money and manage money (through online banking and brokerage activities) than other Internet groups. On the other hand, the novice Internet population looks a lot more like the rest of America with lots of women, minorities, and those from modest-income households, and without college educations. The issue is whether this large newcomer group, which is more concerned about privacy issues, will feel less anxious as time passes and will do more business online.

We are just getting some preliminary information that suggests experience online significantly increases the commercial activities of Internet users as well as their willingness to do other trusting activities online, such as seeking health information. In March 2001, we reinterviewed about 90 Internet users who told us in March 2000 they had recently gotten Internet access. In the course of a year of gaining experience online, this group showed a 15% increase in the number of trusting activities this group had performing online and a nearly 50% increase in the commercial activities it had performed online. This is too small a group from which to draw strong conclusions, but it suggests that experience breeds higher levels of trust.

Privacy concerns are an even bigger issue to those who do not now have Internet access. More than 82 million American adults do not have Internet connections and more than half of them say they have no plans to get access. One of the major concerns they cite is the danger and unreliability of the online world. These worries are most acute among older Americans.

#### POLICY IMPLICATIONS

Internet users would be happier if their online experiences were governed by the strong preference to be in charge of their identities. They embrace principles of notice, choice, access to information about them, and security. Internet users would prefer a different tilt on the privacy playing field, where the burden of effort was shifted away from them and towards those who want to collect information about them.

Internet users would surely profit from an industry-led education campaign that focused on the mechanics of tracking. Companies would gain in users' eyes if they offered a clearer and more convincing explanation of the virtues of cookies—specifically, how their use enhances users' experiences and makes it simpler and more efficient for them to use the Web, and how their use enables advertisers to support the vast amount of free content on the Web. Our surveys show that most Americans viscerally oppose the ideas of online tracking and profiling and they will need a lot of convincing before they accept some of the benefits of those activities.

Finally, users would appreciate more technological tools that would give them a sense of control, or at least transparency in letting them know what is happening to the pieces of their identity they are divulging as they move through Internet space.

## ADDENDUM: OTHER SIGNIFICANT FINDINGS IN PEW INTERNET PROJECT SURVEYS

- 86% of Internet users think Internet companies should ask people for permission to use personal information when people give it to them.
- 71% of Internet users say they themselves, rather than the government or online businesses, should have the most say over how Internet companies track Web activities.
- 54% of Internet users believe that Web sites' tracking of users is harmful because it invades their privacy; 27% say tracking is helpful because it allows the sites to provide information tailored to specific consumers.
- 89% of those who seek health information online (we call them "health seekers") are concerned that a health-related Web site might sell or give away information about what they did online; 71% are "very concerned" about such privacy violations.
- 85% of health seekers are concerned that an insurance company might raise their rates or deny them coverage because of the health sites they have visited; 72% are "very concerned" about this possibility.
- 52% of health seekers are concerned that their employer might find out what health sites they have visited. This ranks comparatively low in part because most health seekers are getting their information online from home.
- 60% of Internet users think that putting medical records online is a bad thing, even if the records are on a secure, password-protected site, because they worry about other people seeing their personal information. The rest think it's a good thing because they and their doctors would have easy access to patients' medical records.
- 94% of Internet users want privacy violators to be disciplined. If an Internet company violated its stated privacy policy and used personal information in ways that it said it would not, 11% of Internet users say the company's owners should be sent to prison; 27% say the owners should be fined; 26% say the site should be shut down; 30% say the site should be placed on a list of fraudulent Web sites.
- Internet users are pretty savvy about at least one privacy safeguard: passwords. Sixty-eight percent of Internet users use different passwords when they register at various Web sites.
- While many are concerned about their privacy online, there is no evidence that the Internet is a more menacing threat to privacy, in most Americans' opinion, than activities in the offline world. That applies, for instance, to credit card information. Of all those Americans who had used their credit card to buy something over the phone, 56% said they worried about someone else getting their credit card number. In comparison, of all those with Internet access who used their credit card to buy something online, 54% said they worried about someone else getting their credit card number.
- Similarly, Americans are just as likely to approve FBI or law enforcement surveillance of criminal suspects' phone calls and postal mail as they are to approve surveillance of suspects' email. Fully 56% of all Americans approve of the FBI or law enforcement agencies intercepting telephone calls to and from people suspected of criminal activities; 55% of all Americans approve of the FBI or law enforcement agencies intercepting letters and packages sent by mail to and from people suspected of criminal activities; 54% of all Americans approve of the FBI or law enforcement agencies intercepting email over the Internet sent to and from people suspected of criminal activities.
- 11% of all Americans and 17% of Internet users know someone who was fired or disciplined because of an email they sent or a Web site they went to at work.
- 25% of Internet users have been hit by computer viruses. The vast majority of the viruses have been sent to them via email.
- Older Americans are more likely than younger Americans to express concerns about privacy and the Internet. Fully 67% of those between the ages of 50 and 64 years old say they are "very concerned" about businesses and people they don't know getting personal information about them or their families, compared to 46% of between 18 and 29.
- 81% of those who get health information online would like to have the right to sue a medical company that gave away or sold information in violation of its privacy promises.
- 92% of Americans say they are concerned about child pornography on the Internet and 50% of Americans cite child porn as the single most heinous crime that takes place online. In other areas, 87% of Americans say they are concerned about credit card theft online; 82% are concerned about how organized terrorists can wreak havoc with Internet tools; 80% fear that the Internet can be used

to commit wide scale fraud; 78% fear hackers getting access to government computer networks; 76% fear hackers getting access to business networks; and 70% are anxious about criminals or pranksters sending out computer viruses that alter or wipe out personal computer files.

- 62% of Americans say new laws should be written to make sure that ordinary citizens' privacy is protected from government agencies.
- Among the relatively small number of Americans (21%) who have heard about the FBI's email sniffing program called "Carnivore" or "DCS1000," there is much more evenly divided opinion. Forty-five percent of people who have heard of it say Carnivore is good because it will allow the FBI a new way of tracking down criminals. Another 45% say Carnivore is bad because it could be used to read emails to and from ordinary citizens.
- 79% of Internet users who did not buy gifts during the holiday season of 2000 said they do not like to send credit card or other personal information over the Internet.

Mr. STEARNS. Mr. Taylor.

#### STATEMENT OF HUMPHREY TAYLOR

Mr. TAYLOR. Mr. Chairman, Members of Congress, many thanks for inviting me to give this testimony. I am delighted to be here. I will slightly abbreviate my written remarks in the interest of time.

Harris Interactive, formerly Lewis Harris and Associates, sometimes known as the Harris Poll, has conducted some 30 surveys on privacy issues over more than 20 years. Many of these surveys were done with my friend and privacy mentor, Dr. Westin over here, whose knowledge and wisdom and judgment on this subject has been invaluable to us.

In the interest of time, I am going to talk only really about privacy on the Internet, and not about the many other things we have covered. Because of the need for brevity, however, it is important to make three general comments. One is that public opinion, as I think Dr. Westin will tell you, is not at all homogeneous.

Second, the public opinion on privacy issues is not stable, it changes, and will continue to change. Third, that privacy is, as you have said, a very multi-faceted issue covering everything from identity fraud and discrimination to embarrassment—for example, if it lets people know that you have been visiting porno sites—or just plain nuisance from being repeatedly spammed.

We have described privacy as a "landmine issue" because it is something which may blow up in the faces of people who are not expecting it. They are not aware that it is there as an issue until it blows up.

When we ask people to tell us what issues are important to them spontaneously, they very rarely mention privacy. It is not usually a top-of-the-mind issue. But whenever we ask people about the importance of privacy, they almost invariably tell us that it is important or very important.

And, indeed, the public concern about privacy and the public perceptions of the importance of privacy and the feelings that they have lost control of their privacy have all been increasing over the last two decades.

When somebody does tread on an issue like this and it does explode, the potential for public outrage is very substantial, and there can be very strong demands for punitive government regulations of industries, most of which are entirely innocent of any wrongdoing, but where there are a few bad apples in the barrel.

What are the biggest concerns about privacy online? The largest numbers in our surveys, between 50 and 65 percent, say they are very concerned about Web sites which provide information, personal information about them to other organizations without their knowledge, Web sites which collect information about them without their knowledge, Web sites which merge their shopping and browsing habits to develop profiles of their behaviors and tastes, and their financial or other sensitive information being stolen.

Now, you should know that the public differentiates quite sharply between different companies and different industries and different organizations, and that the public is much more trusting of some than of others so it depends who you are, and clearly trust is something which can be earned and can equally easily, or much more easily, be lost.

I interpret our data as showing that having and displaying strong privacy policies is not just something which is ethical, but which is something actually good marketing and good business, whether or not people actually read them and, in most cases, or in many cases, only a small minority of Internet users actually read the privacy notices.

There is clear evidence of the public's willingness to trade information, personal information, in return for benefits. However, most people have very little idea about how companies are now using that information in ways which are helpful to them, and they don't therefore see why it is necessary to provide that information. But when the use of that information is explained to them in terms of specific benefits to them, they become much, much more willing to provide it.

We also see that the use of the Internet over time increases trust and decreases concern about privacy because, as you just heard, relatively few people have suffered any adverse consequences.

Familiarity with the Internet generally breeds not contempt, but comfort and trust. This is also true of the user purchasing online and the use of credit cards.

Finally, what does the public want from government? Well, ours and other surveys show that on balance the public doesn't have much confidence in government's ability to protect their privacy and, indeed, often views them as a greater potential threat to their privacy than the private sector. And, ideally, people say that it would be better if industry or companies could self-regulate to protect their privacy.

Having said that, our surveys also show that the majority of the public favor government regulation to protect their privacy because they actually do not believe that the industries will self-regulate effectively. In other words, there will be enough bad apples in the barrel to make regulation necessary.

We also have information as to the specific things that the public wants in the way of protection. Overwhelming majorities want people who collect information about them to ask their permission before using their personal information for any other purpose than it was originally given for. They want the companies to explain to consumers what personal information is collected about them and how it is used. They want these companies to allow consumers to see the information the company has stored about them. And they



want to be told exactly how their sensitive information is secured in both transmission and storage.

Finally, as I said, I think that having good, strong privacy protection policies and notices is not only something which the public wants, but which is also actually good for legitimate business. Thank you, Mr. Chairman.

[The prepared statement of Humphrey Taylor follows:]

PREPARED STATEMENT OF HUMPHREY TAYLOR, CHAIRMAN, THE HARRIS POLL, HARRIS INTERACTIVE

INTRODUCTION

Thank you for inviting me to today's hearing.

Harris Interactive, formerly Louis Harris & Associates (and often known as The Harris Poll) has conducted more than 30 surveys over the last 23 years on privacy issues for clients such as IBM, Equifax, The Privacy Leadership Initiative, The Wall Street Journal, Business Week, and the National Consumers League. Many of these surveys were done with the invaluable advice of my privacy mentor, Dr. Alan Westin. I should note that Harris Interactive conducts many research projects using the Internet, that we have strong privacy protection for our respondents, and that we are member of the Privacy Leadership Initiative (PLI). However, today I speak only for myself. My opinions are not necessarily those of anyone else.

Much of this research, relating to issues such as direct mail, consumer databases and marketing generally, in relation to credit, insurance, medical records, employment, telecommunications, law enforcement and the Census for example, had nothing to do directly with the Internet. In my brief time today, I will try to give you the big picture of what we found in our research about *privacy on the Internet*, and not mention the many other privacy issues we have addressed in our research.

Because of the need for brevity, three words of caution are necessary:

1. Public opinion—as I hope Alan Westin will tell you—is not at all homogeneous.
2. Public opinion is not stable. It has changed and will continue to change.
3. Privacy is a multi-faceted issue involving everything from identity fraud and discrimination or embarrassment to minor annoyances.

HOW IMPORTANT IS PRIVACY ONLINE AS AN ISSUE?

I have often described privacy as a “landmine issue.” It is only rarely mentioned spontaneously by the public as a “top of mind” issue but, when asked about privacy, large majorities of the public say it is an important issue, that they do not believe their privacy is adequately protected and they are very concerned about it. We use the word “landmine” because we believe privacy *can very quickly become a major issue based either on bad personal experience or on negative media coverage of offensive violations of privacy*. (This is what happened with credit ratings.)

When this happens public outrage can grow rapidly and support strong, even punitive, government regulations of industries most of whose members are blameless.

WHAT ARE PEOPLE'S BIGGEST CONCERNS ABOUT PRIVACY ONLINE?

The largest number of online users are “*very concerned*” that:

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Websites will provide personal information about them to other organizations without their knowledge .....	64%
Websites will collect information about them without their knowledge .....	59%
Websites will merge their shopping and browsing habits to develop profiles of their behavior and tastes .....	53%
Their financial, or other sensitive information, will be stolen .....	53%

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THE PUBLIC DIFFERENTIATES BETWEEN DIFFERENT COMPANIES AND DIFFERENT INDUSTRIES

Several surveys have shown that the public is much more trusting of some industries and of some companies, than of others. This trust must be earned—and can easily be lost. Having, and displaying, strong privacy protection policies is one factor consumers use to differentiate between them.

WHAT ONLINE CONSUMERS WANT

Very large majorities of online users think it is “*absolutely essential*” or “*very important*” that sites:

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Ask consumers permission before using their personal information for any other purpose than it was originally given for .....	94%
Explain to consumers what personal information is collected about them and how it is used .....	87%
Allow consumers to see the information the company has stored about them .....	82%
Tell consumers exactly how their sensitive information is secured in transmission and storage .....	82%

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#### PRIVACY CONCERNS INFLUENCE ONLINE ACTIVITY, PARTICULARLY PURCHASING ONLINE

While concerns about privacy are only a modest barrier to the use of the Internet and the Web, they do inhibit it. This is particularly true of the public's reluctance to purchase goods or services online and to use credit cards to do so.

#### THE IMPACT OF STRONG PRIVACY PROTECTION POLICIES AND NOTICES

Many of those who are unwilling, or reluctant, to use the Internet and in particular to purchase products and services online, say they would be much more likely to do so if companies had strong privacy protection policies and displayed them prominently. This willingness to do business with such companies increases even more when respondents believe that such policies are observed and enforced.

Having, and displaying, strong privacy policies is good marketing and good business, whether or not people actually read them (only a modest minority of Internet users do so regularly).

#### THE PUBLIC'S WILLINGNESS TO TRADE INFORMATION FOR BENEFITS

Many people do not seem to have much understanding of how companies who are selling financial services or other goods or services use information about consumers to target their sales efforts to those who are most likely to buy them. As a result, they do not see why they should provide the information.

However, when the use of the information, and benefits to consumers, are explained to them they become much more willing to provide it.

In other words, many people who are initially reluctant to provide personal information are willing to do so when this is seen to be of some benefit to them.

#### USE OF THE INTERNET INCREASES TRUST AND DECREASES CONCERNS ABOUT PRIVACY

Familiarity with the Internet generally breeds comfort and trust, not contempt. The more people use the Internet without suffering adverse effects, the less they are concerned that their privacy might be violated. This is true of online purchasing and credit card use.

#### WHAT DOES THE PUBLIC WANT FROM GOVERNMENT?

On balance, the public trusts the government rather less than it trusts business to protect its privacy. Ideally people would prefer that industries adopt sound privacy protection policies to having government regulation. However, substantial majorities of the public believe government regulation to protect consumer privacy on the Internet is necessary, presumably because they do not believe that self-regulation will be successful. Absent adequate legal protection, people seem to believe that consumer protection will be abused.

Mr. STEARNS. Thank you.

Dr. Westin, welcome.

#### STATEMENT OF ALAN F. WESTIN

Mr. WESTIN. Mr. Chairman and members of the subcommittee, I am appearing today at your invitation as a long-time privacy expert. Some people think my first article on privacy was published the same year as Lewis Brandeis' in the Harvard Law Review but, of course, his was in 1890, mine was in 1952, so that gives me about 50 years of pioneering with the privacy issue, endlessly fascinating. Also, I appear as someone who, for his sins, has participated as the Academic Advisor in 45 national surveys of the American public and leadership groups on privacy, starting in 1970.

I think it helps to start by recognizing that surveys are a complex blend of art, science and advocacy, and whenever you get sur-

vey findings you always have to, as I am sure Members of Congress alone are accustomed to do, take a careful look at how the questions are framed and the order in which they are presented, and the kind of sample, and also the sponsors and what their perspectives are.

So, with that background, the subcommittee asked me to address three questions and to give my view as to what the surveys—not only my own, but my organization, Privacy and American Business, has literally 120 national surveys on privacy in our library—some excellent, some poor, mixed bag, and I did do a review of a lot of them in order to answer the three questions which the counsel asked me to address.

First, has there been a transformation of consumer privacy attitudes over the past decade? And I think good surveys tell us absolutely “yes.” That whereas once only about a third of the American public expressed any concern about threats to their privacy, we now have nine out of ten Americans saying they are concerned about the potential misuse of their information and threats to their privacy in America today, and what is important is, 77 percent expressed themselves as very concerned.

Equally important, we find that there is a new wave of what I call “privacy assertive behavior” on the part of American consumers. Three out of four, 78 percent, report that they refuse to give information to businesses because they felt it was too personal and not really needed by the businesses, and over 80 percent think businesses collect too much personal information for the services they provide.

Majorities tell us that they have declined to patronize companies that they thought were going to misuse their information or create profiles about them.

We also know that when people are given a list of reasons why they are not on the Internet or why they are not buying on the Internet, majorities say that privacy is the single, most important reason for that behavior.

At the same time—this is what makes privacy such an interesting issue—American consumers, by large majorities, want all the benefits and opportunities of a consumer service society and of a market-driven social system. As long as you give them proper notice and choice, more than three out of four respondents again and again say it is all right for the businesses they patronize to look at their transactions and their interests, and to communicate with them things that they think will be of interest to them.

So, we have concern about privacy, but also a desire to enjoy the benefits of a consumer society, and the question is, how do Americans divide in those balances between those two values?

Over the years, surveys that I have done with Harris and with Opinion Research Corporation have produced a profile of three segments of the American public. First, you have what we call “Privacy Fundamentalists,” about 25 percent of the public. These are people intensely concerned about privacy, who generally will reject benefits offered to them by business or will be skeptical about government’s need for information, and will want to see legislation to control business collection and use of personal information.

At the opposite end, you have what I call the “Privacy Unconcerned,” used to be 20 percent but now it is down to 12 percent, who really don’t know what the privacy issue is all about. I like to think that for 5 cents off, they will give you any information you want about their family, their lifestyle, their travel plans, and so forth.

In between are what we call the “Privacy Pragmatists,” and that is 63 percent which represents approximately 126 million American adults and, essentially, they go through a very structured process when concerned with their privacy.

First, they want to know what is the benefit to them as a consumer if their personal information is provided or if they give it, what is collected about them.

Second, they want to know what privacy risks they run if the information is collected and used.

Third, they look to see what safeguards the company or the industry offers to protect them against those risks.

Finally, and most important, they ask do they trust you, do they trust the company or the industry, and if they want the benefit and they are worried about the risks but they don’t trust the company or the industry, then they want legislation to protect them and a governmental role of oversight and implementation.

Second question the committee asked me to address is, do we understand what are the driving sources of these privacy attitudes which all the witnesses are reporting? I think good surveys tell us a great deal about that.

My own work suggests that there is a correlation between the distrust level of American consumers and citizens and their attitudes on privacy. We have a “distrust index” that measures people’s attitudes toward government, voting, the business community, and technology, and when people score high in distrust, they tend to take the strongest “privacy attitude,” and when they have low distrust or even no distrust, then they tend to be much more accepting of information collection and its use.

But when you dig down at a deeper level, I think privacy has three components that the surveys truly illuminate. First is what I call “anti-intrusion.” People are hostile to unwanted mail and especially to telemarketing. Seventy-eight percent of respondents are angry about telemarketing to them without their consent.

Second element is “anti-manipulation.” People fear that profiles are going to be collected about them that will allow the kind of hidden persuader type of marketing we associate with Vance Packard and the Naked Society and the other anti-manipulation themes.

Third, they worry about discrimination, that information will be collected and secretly used through credit scoring or algorithms that they don’t know about in order to decide whether they get credit or insurance or whether they are employed.

I think those three are components of what the privacy concern is all about.

More recently, we have some new elements that are in some ways even more powerful. First is the Internet leads people to make astounding self-revelation, if you think about it. People are going to places and looking at things and revealing things about themselves that has no precedent really in Western history in

terms of self-revelation and communication. And people are worried about tracking or hacking them in terms of that kind of experimental and revelatory behavior.

Second, people are concerned about identity theft. Another survey I did found that one out of five households in America report that a victim in their household has been the object of identity theft.

Finally, what do consumers want? I think good surveys indicate that what consumers want is systems for informed privacy choices to be implemented and enforced. Majorities think it would be better if business did this, but they are ready and anxious that government step in if business fails to do so or if there is outlaw behavior.

We know that a majority of the American public does not favor the European Union style of omnibus national privacy legislation and a national privacy regulatory agency, but when it comes to sensitive information such as financial information or health information, overwhelming majorities are looking to legislative protections to set the rules and the standards for that kind of activity.

We also know that in terms of where Congress is going, large majorities would like to see Congress pass anti-spam legislation, would like to see genetic privacy legislation enacted, and that some kind of framework legislation for online privacy is heavily favored.

Let me close, though, by noting that surveys are not a very good way to write legislation. Surveys are a dun to the general public, they are not policy wonks, they can't get down into the guts and details of good legislation. Also, we are really just opening up some meaningful debate about what the costs and dislocations of some of the proposals for online privacy legislation would bring to the fore. And I think it is going to take a lot of legislative wisdom and expert input to get to good legislation.

What the surveys tell us is that the overwhelming majority of the American public is looking for systems of protection, but crafting good legislation is not something you should look to surveys for much help on.

[The prepared statement of Alan F. Westin follows:]

PREPARED STATEMENT OF ALAN F. WESTIN, PROFESSOR OF PUBLIC LAW & GOVERNMENT EMERITUS, COLUMBIA UNIVERSITY, AND PRESIDENT, PRIVACY AND AMERICAN BUSINESS

#### EXECUTIVE SUMMARY

This testimony is based on my experience as the academic advisor to 45 national privacy surveys between 1979 and 2001, and my analysis of more than 120 privacy surveys held in the Privacy & American Business survey library. I am answering questions posed by the subcommittee as a political scientist and privacy expert.

1. There has been a well-documented transformation in consumer privacy attitudes over the past decade, moving concerns from a modest matter for a minority of consumers in the 1980s to an issue of high intensity expressed by more than three-fourth of American consumers in 2001. In addition, a majority of consumers has become quite privacy assertive in their relations with businesses, making decisions on who to use and what information to provide based on their own privacy judgments.

2. But US consumers also want the benefits of a consumer-service economy, and they are not monolithic in their privacy views. Tracked across the past decade, they divide into three segments with very different general approaches to privacy views and tradeoffs—a high, medium, and low privacy perspective described in the main testimony. About 125 million American adults fall into the moderate—Privacy Pragmatist—category. How to merit and secure the trust of this group should be the focus of businesses and lawmakers alike.

3. The driving factors behind high privacy concerns stem from high levels of distrust of institutions and the fears of technology abuse. Privacy concerns are centered on intrusions, manipulation, and discrimination; on special concerns about third parties capturing the sensitive self-revelations users are making on the internet; and on consumer concerns about identity theft and stalking through capture of personal information.

4. The great majority of consumers favor a notice and choice approach to privacy policies. They hope that business will do this well but stand ready to invoke government intervention if business fails. For especially sensitive types of information—financial and health—and for online protection, large majorities favor legislative standards. However, surveys generally do not offer much useful data, on the details of such legislation, since consumers are not policy wonks, and the debates over costs and economic dislocations in adopting policies such as “all-opt-in” are just beginning in to be heard in the legislative chambers.

#### *Three Subcommittee Questions*

The Subcommittee has asked me to present a critical analysis of privacy surveys published over the past decade, offering my views on three questions. Has there been a transformation of the privacy concerns of American consumers in the Internet age? If so, what are the sources of this development? And what do these concerns suggest about legislative choices on privacy protection?

My perspective in responding is that of a political scientist and privacy expert (author of *Privacy and Freedom*, 1967) who has been the academic advisor to 45 national public and leadership surveys on privacy since 1970 that were sponsored by a wide variety of foundations, government-research agencies, and business organizations. (A short bio has been provided in Appendix One, along with a Selected List in appendix Two of the privacy surveys on which I have been the academic advisor.) Since the 1970's, I have been presenting the results of my privacy surveys to Congressional committees, the FTC and FCC, and various Federal Executive Agencies.

At the outset, of course, legislators should recognize that contemporary survey research is a complex blend of art, science, and advocacy. No one should accept “survey findings”—on privacy or any other social or political issue—without examining the content and order of the questions, the representativeness of the sample, and the perspectives of the sponsors.

Based on my reading of the solid surveys within a larger pool of over 120 U.S. privacy survey reports collected in the Privacy & American Business library, I believe these offer useful answers to the questions posed by the Subcommittee:

#### *1. Has There Has Been A Transformation In Consumer Privacy Attitudes Over The Past Decade? Definitely yes.*

Surveys show that today nine out of ten Americans are concerned about the potential misuse of their personal information; three fourths of them (77%) say they are now “very concerned.” Even more significantly, a majority of American consumers have become privacy-assertive. They are refusing to give their personal information to businesses when they feel it is too personal or not really needed, asking not to be marketed to, and declining to patronize a business because of uncertainty about how their personal information would be used. Concern about privacy is the single most cited reason Net users give for not making purchases and for non-Net-users declining to go onto the Net.

At the same time, however, surveys show that most consumers want the opportunities and benefits of our consumer-service and marketing-driven society. With proper notice and choice, more than three out of four consider it acceptable that businesses compile profiles of their interests and communicate offers to them.

Further, consumers continue to divide into three basic segments that my surveys have been tracking since the early 1990's, when it comes to overall consumer privacy preferences. These are *Privacy Fundamentalists* (25%), who reject offers of benefits, want only opt-in, and seek legislative privacy rules; *Privacy Unconcerned* (now down to 12% from 20% three years ago), who are comfortable giving their information for almost any consumer value; and—the most important group for Congresspersons to understand—the *Privacy Pragmatists* (63% or 125 million strong). Privacy Pragmatists ask what's the benefit to them, what privacy risks arise, what protections are offered, and do they trust the company or industry to apply those safeguards and to respect their individual choice. How to create conditions of trust for the Privacy Pragmatists is the challenge for businesses and lawmakers alike.

Overall, surveys show that privacy now scores as one of the top consumer and social-policy issues in the U.S., especially intense among women, a strong concern of

both conservatives and liberals, and a political imperative for both Republicans and Democrats.

## 2. *Do We Understand The Driving Sources Of This Transformation? Yes, We do*

Consumers report that their views on privacy do not come solely from what they read or hear in the media but strongly reflect their own personal experiences and those of family and friends. As far as driving factors, my surveys since 1978 have shown that the higher a respondent's general distrust of institutions and fears of technology abuse by organizations, the greater will be the concerns about privacy. We also know that "privacy" in the consumer-business relationship has three components expressed by survey respondents: *anti-intrusion* (against unwanted mail or telemarketing); *anti-manipulation* (against compiling profiles that allow "hidden persuader" marketing); and *anti-discrimination* (against secret standards being used for making consumer risk-assessments, as for credit or insurance).

Three additional underlying factors fueling current high privacy concerns have been documented in surveys: (a) fears about tracking or hacking the unprecedented self-revelation that most Internet users engage in (with email, forums, information-seeking, and purchasing); (b) concerns about tangible and serious harm from identity theft, through capture of consumer's personally-identifying information, and (c) fears, especially by women, of stalkers or child-predators gaining location information from either public-record sources or Internet communications.

## 3. *So, What Do Consumers Want? Systems for Informed Privacy Choices, Implemented and Enforced.*

In general, majorities of consumers think it would be best if businesses put good privacy policies in place voluntarily, and saw to their wide implementation; if they fail to do so, consumers want law to step in.

Organizational surveys in 2000-2001 show that a majority of American businesses have—at last—gotten the message that most consumers really care, and will make decisions to assert their interests on the basis of privacy. Surveys of business conduct on and off the Net show most businesses are now adopting meaningful privacy policies, and a majority of consumers say in public surveys that they think this is happening. Surveys have also shown that a majority of the American public does not favor a European-Union-style omnibus national privacy law and a national data protection regulatory agency.

There are some new issues we have yet to test in surveys but are beginning to do. A survey that Privacy & American Business is now putting in the field, for example, asks consumers whether they think that the appointment of Corporate Privacy Officers (CPOs) by companies is a positive development, what consumers want CPOs to do, and whether such institutionalization of privacy responsibility in individual firms would enhance consumer confidence in such companies.

However, it is clear that where especially sensitive consumer information is being collected and exchanged today—in the financial and health areas in particular—surveys show the public wants to see legal privacy-protection rules enacted and enforcement actively pursued. Reflecting that overwhelming sentiment, Congress included Title V in the Financial Modernization Act of 1999 and both Presidents Clinton and Bush supported the health privacy regulations of HIPAA. Surveys showing overwhelming Net-user hostility to spam will, and in my judgment should, lead Congress to pass anti-spam legislation at this session. Similar survey results showing strong public opposition to uses of genetic information for employment or health-insurance purposes suggest that well-designed legislation here would be responsive to the public's deep concerns.

As for online privacy legislation, surveys show strong majorities favoring "action" by Congress to set framework rules. But general-public surveys do not provide good data on what kind of online privacy legislation consumers would support, since the public is not made up of policy wonks and the key policy issues lie in the legislative details. Debates are just developing on what true costs and market dislocations would be created by some of the sweeping, "all-opt-in" proposals for online privacy legislation, and these remain to be tested—if indeed they can be—through survey methods.

## *Summing Up*

A decade of extensive survey research, much of it solid and credible, documents a steadily rising rational and justified public demand to set new, privacy-protecting rules for collection and use of consumer personal information by businesses. The work of this decade, among survey researchers and Congresspersons alike, is to discover what will persuade the 125 million American Privacy Pragmatists that we have the right blend of business initiatives and legal oversight for good consumer information relationships with business.

Mr. STEARNS. Thank you.  
Dr. Newport.

#### STATEMENT OF FRANK NEWPORT

Mr. NEWPORT. Good morning, Mr. Chairman, members of the committee. I appreciate having this opportunity to review with the subcommittee the findings of our Gallup polls relating to privacy over the Internet.

Although there are concerns about privacy that relate to a wide variety of settings in today's society, my testimony today will focus on concerns relating to personal information and use patterns of the Internet.

Our data suggest that roughly 50 to 55 percent of adult Americans say they use the Internet on a regular basis either at home, work or at school, and it is this population that I will be referring to in the rest of this very brief testimony.

One key question that we asked Internet users in one poll last fall that is particularly germane to this subcommittee is, "What is the role of the Federal Government in these matters?" The response of about half of our Internet users said that the Federal Government should be "paying more attention to matters of Internet privacy." About a third said that what the Federal Government was doing now was about right. And—and this relates to what Representative Doyle, I think, mentioned just briefly in his introductory remarks—about 13 percent, a relatively low number, said that the Government should, in fact, be paying less attention to matters of Internet privacy.

We obtained roughly the same answers when we asked in a slightly different way if the Federal Government should do more or less to ensure citizens' privacy online. In this case, however, only 6 percent said that the Government should do less. That same rough number, about half, said the Government should "do more," and 40 percent said what the Government was doing now was about right.

The interpretation of these types of responses, for myself and ourselves at the Gallup Poll, is a challenge in part because this is a new area of research. We have very little trend data. It is not a question about Internet privacy and what the Government should be doing that Dr. Gallup was asking back in the 1930's and the 1940's, obviously, so we can't go back in time and see whether that is relatively high or relatively low. It is tough to place the current sentiment in the context of historical patterns, and we also have few pre-existing hypotheses against which we are testing the data.

Now, we do know that roughly half of Internet users say that they are very concerned about the "privacy of personal information you give out on the Internet, as well as privacy regarding what you do on the Internet." Another three in ten are somewhat concerned, meaning that only about 20 percent, echoing what we have been hearing, say that they are not concerned.

But, on the other hand—and I think this is a very important point—the issue itself does not appear at this point to be highly salient to Internet users. Just about 16 percent in our poll last fall said that they were following issues related to privacy of personal information and use patterns on the Internet very closely, half said



that they were not following the issue closely at all—and, again, this sample was a sample of those who told us that they regularly use the Internet. In a way, I think this goes back to Mr. Rainie's testimony that at this point most people have not had a major privacy concern and therefore it is not a very highly salient issue.

Our overall conclusion is that this is an issue which is of significant potential concern—I would underscore the word “potential”—but one which has not yet moved to the point where it is currently a front-burner problem to many Americans who regularly use the Internet. As my colleague, Humphrey, said, we do not find it hardly at all in our most important problem questions when we ask Americans what it is that are burning concerns on their mind at this point.

We can be a little more specific. In one poll last fall, we gave our respondents six different dimensions of Internet privacy and asked which ones they were most concerned about. Interestingly for the subcommittee, at the top of the list were concerns about the Government being able to tap into Internet email. Sixty-three percent of Internet users said they were very concerned about this issue, putting it No. 1 out of the 6 that we tested. Second was the issue of large, online data bases,. Sixty percent said they were very concerned about that issue. There was less concern about the Government's ability to tap into suspects' computers, and at the bottom of our list, relatively less concerned about Internet advertisers who gather marketing information about people who click on ads and corporate Web sites which gather marketing information about consumers by tracking their habits. The percentage of Americans were very concerned about all of these issues ranges from roughly 43 to 63 percent.

In summary, I would repeat that in our opinion the issue of Internet privacy is not one of the greatest concerns to Internet users today, but one which has the potential—and I heard the word “landmine” used a moment ago, which seems a reasonable term to use—to be a significant perceived problem in the years ahead. It is not a problem at this point which a lot of consumers have had trouble with, and therefore is not one which comes readily top-of-mind when you stop Internet users on the street, figuratively speaking, and ask what it is that is a pressing concern to them at this point.

In terms of what the Federal Government should be doing, remedies and actions, as mentioned, about half of the Internet user population said the Government should get more involved. On a relative basis, this does not put this high on the list, in our opinion, of priorities that the average American or even average Internet user has for the Federal Government.

One last point. Our polls show—and we did ask Americans this—that when asked which political party would do a better job handling this issue, it came to almost an absolute tie between Republicans and Democrats. So, at this point, at least as of last fall, it was not perceived as a highly partisan issue in terms of who would do the better job of trying to address these issues. Thank you.

[The prepared statement of Frank Newport follows:]

## PREPARED STATEMENT OF FRANK NEWPORT, EDITOR-IN-CHIEF, THE GALLUP POLL

Mister Chairman, members of the committee, and guests.

I appreciate having this opportunity to review with the Subcommittee on Commerce, Trade and Consumer Protection the findings of our Gallup polls relating to privacy over the Internet.

Although there are concerns about privacy that relate to a wide variety of settings in today's society, my testimony today focuses exclusively on concerns relating to personal information and use patterns of the Internet.

Our data suggest that about 53% of adult Americans use the Internet on a regular basis either at home, work or at school. It is to this population that I will be referring in the rest of this testimony.

One key question we asked Internet users in our poll last fall related to the role of the Federal government in these matters. About half of Internet users said that the Federal government should be "paying more attention to matters of Internet" privacy. About a third said that what the federal government was doing now was about right, while 13% said that the government should in fact pay "less attention" to matters of Internet privacy.

We obtained roughly the same answers when we asked in a slightly different way if the federal government should do more or do less to ensure citizens' privacy on line. In this case, however, only 6% said that the government should do less. Half said "do more" and forty percent said what the government was doing now was about right.

The interpretation of these types of responses is a challenge. In this particular situation, we have no trend data. This is the first time we have asked about Internet privacy in this fashion, and therefore we cannot place the current sentiment in the context of historical patterns. We also have few pre-existing hypotheses.

We do know that roughly half of Internet users say that they are very concerned about the "privacy of personal information you give out on the Internet, as well as privacy regarding what you do on the Internet". Another three out of ten are somewhat concerned, meaning that only about twenty percent say they are not concerned.

But, on the other hand, the issue itself does not appear to be highly salient to Internet users. Just about 16% said in our poll last fall that they were following issues relating to privacy of personal information and use patterns on the Internet very closely, while about half said that they weren't following the issue closely at all.

Our conclusion is that this is an issue which is of significant potential concern, but one which has not yet moved to the point where it is a currently front-burner problem to many Americans who regularly use the Internet.

We can get a little more specific. We gave our respondents six different dimensions of the Internet privacy issue and asked them to rate their concern over each.

At the top of the list are concerns about the government being able to "tap" into Internet e-mail. For whatever reason, some 63% of Internet users are "very concerned" about this issue. Second in the list comes the issue of "large online databases which publish telephone directories, property tax information, legal information and other publicly available records which allow database subscribers to investigate the lives of ordinary Americans". Sixty percent of Internet users are very concerned about this issue.

There is somewhat less concern about the government's ability to "tap" into suspects' computers, and still less concern about Internet advertisers gathering marketing information about people who click on their ads, and corporate websites which gather marketing information about consumers by tracking their habits.

Although the percentage of Americans who are "very" concerned about these issues ranges from 43% to 63%, most of the rest say that they are at least "somewhat" concerned. Relatively few web users say that they are not too or not at all concerned.

In summary, I would say that the issue of Internet privacy is not one of the gravest concern to Internet users today, but one which has the potential to be a significant perceived problem in the years ahead. In terms of specific governmental remedies and actions, about half of the Internet user population feels that the federal government should get more involved, but most of the rest think that the government is doing today is just about right.

One last point. Our poll shows that Americans have no preconceived notion as to which political party will do a better job handling this issue.

Thank you.

Mr. STEARNS. Thank you.

Dr. Bauman.

# **STATEMENT OF SANDRA BAUMAN**

Ms. BAUMAN. Thank you, Mr. Chairman and honorable Members, for the opportunity to speak before you today. My name is Sandra Bauman. I am a Vice President at Wirthlin Worldwide, a 30-plus-year-old international public opinion research and consulting company with headquarters in McLean, Virginia.

It is an honor to speak with you today about the research we have conducted regarding information privacy. Let me first start by acknowledging that in some sense Americans are generally concerned about how companies are using their personal information. What they fear most is that somehow their personal information will get into the wrong hands and cause them some harm, such as hurting their credit history or having their identity stolen. At the same time, consumers also understand that in order to get information or complete a transaction, they need to give some information. Whether it be online or distance shopping, consumers are willing to give personal information that is deemed necessary for a particular transaction, rather than some possibly sensitive personal information that doesn't seem necessary or relevant.

This is intuitive, of course. The challenge is to understand what types of information are more sensitive and what types of information customers deem necessary to that particular transaction. If we were to generically ask in a poll, "Are you concerned about your privacy?" of course a majority would say yes because there is no context. Why wouldn't you be concerned about your privacy? It depends on why it is necessary to share information in the first place.

Different situations may require different types of disclosure of personal information. Consumers may be very comfortable providing a specific piece of information in one context, yet uncomfortable providing that very same piece of information in another context.

At Wirthlin Worldwide, we have conducted a great deal of opinion research in the recent years on the subject of privacy, most of which is proprietary to a number of different clients, but last year we conducted a multi-phase, in-depth qualitative study, including several focus groups and 85 in-depth one-on-one values-based laddering interviews. The interviews were designed to provide a thorough, in-depth understanding of the general public's attitudes about privacy issues by uncovering their perceptions of the direct marketing industry and related industries at both rational attribute and benefit levels, and emotional and values levels. These interviews are very in-depth. They last on average 2 hours each.

Findings from these qualitative studies and generally from our experience in our 30-year history indicate that people make choices and form opinions based on closely held personal values. The rational elements of decisionmaking process are important in supporting the emotional components that they tap into.

As individuals feel protected and that they have control, the physical benefits from sharing information satisfy emotional needs. In fact, we summarize the way people think about the need to provide personal information similarly to how the panelists articulated it today: I want to give what I want to give when I want, and I

want to get what I want when I want. In other words, consumers are willing to part with information they perceive necessary to commence or complete a transaction of their choice, as long as their values of control and safety are intact.

Most recently, we conducted a nationwide telephone study to obtain an up-to-date picture of how the public is viewing privacy issues. Our survey was conducted late last week and has a margin of error of about 4 percentage points.

We found that there are categories of information that consumers are willing to share in order to conduct a transaction, and other information they believe should never be shared, which you can see on the chart here to your right. It is also in your materials.

For example, the majority of people say they are never comfortable sharing their Social Security number, financial information, medical information, or information about their children. These types of information are deemed sensitive and, therefore, individuals are less likely to share information which falls into the category of "not necessary" or "none of your business."

Conversely, people are usually comfortable revealing their gender, age, education, occupation, hobbies and interests, and how they heard about a particular company.

There are actions businesses can take to further satisfy consumers' needs for safety and control of personal information. A second chart here to your right. For example, our study finds that 6 in 10 consumers are more confident in sharing their personal information, knowing that they can opt-out of direct marketing and telemarketing lists. Three-quarters tell us they are more supportive of allowing industry to address the use of personal data knowing that the opt-out policy is in effect. Other things that comfort consumers are using technology to prevent identity theft, restricting access to medical and financial data for marketing purposes, and communications campaigns about highlighting consumer rights and privacy protections. If businesses champion a series of safety and security measures, consumers would have a better sense of control and feel that by providing personal information they have made a smart choice, saving themselves time and money.

The Internet, which is still a relatively new medium, is not completely understood by the public, even by many users. Most aren't sure exactly how it works. They know it is a communications tool, they can receive information, provide information, but they don't know when information travels over the Internet where it goes and who is at the other end. It is this fear of the unknown that raises the level of skepticism for many consumers and reduces their feelings of control.

For example, most people will provide their credit card to a stranger to process a transaction at a traditional business or restaurant without concern for their personal credit data. These practices have a tradition of being secure and are therefore widely accepted by consumers. The same is true for catalog purchases. Of 11 factors that are important to a purchase decision, concern over privacy of personal information or credit card information rank 9th and 10th out of a list of 11.

With a new medium such as the Internet, consumers' level of comfort is tied to their experience. Our research shows that as peo-

ple have positive experiences with Internet commerce, their level of skepticism is diminished. Over time, as more and more people experience Internet commerce, the unknown nature of the medium will fade as it becomes part of our daily lives.

In summary, companies that voluntarily enact good privacy policies, ones that are easily understood by everyday consumers, can help comfort consumers that their information will not be abused. Industry can achieve this effectively by engaging in self-regulating policies concerning the collection, use, storage and exchange of personal information. Thank you.

[The prepared statement of Sandra Bauman follows:]

PREPARED STATEMENT OF SANDRA BAUMAN, WIRTHLIN WORLDWIDE

Americans are generally concerned about how companies who collect personal information use the information. What they fear most is that somehow this personal information they share gets into the wrong hands and some harm comes to them, such as having their identity stolen. At the same time, consumers understand that in order to get information, they need to give information. That said, in order to conduct a transaction, whether it be online or distance shopping, they are more willing to give personal information that is deemed necessary for that transaction, rather than some possibly sensitive personal information that doesn't seem necessary.

This is intuitive, of course. The challenge is to understand what types of information are more sensitive and what types of information customers deem necessary to a transaction. If we were to generically ask in a poll: "Are you concerned about your privacy?," of course a large percentage would say yes because it is taken out of context in terms of why the information was necessary to share in the first place. Different situations may require different types of disclosure of personal information.

Wirthlin Worldwide has conducted a great deal of opinion research in the past three years on the subject of privacy (most of which is proprietary to a number of different clients), but in the aggregate as we drill down into what the consumer receives in return for the sharing of personal information "both from the internet transactions and direct shopping—the picture is painted differently than what some would have you think.

In March 2000, we conducted a multi-phase qualitative study on privacy. Our approach began with four group discussions in Philadelphia, PA and Grand Rapids, MI, which were designed to uncover initial impressions of the public's attitudes toward privacy issues. Following these group discussions, we conducted a total of 85 in-depth one-on-one values-based laddering interviews. These interviews were designed to provide a thorough, in-depth understanding of the general public's attitudes about privacy issues by uncovering respondent's perceptions of the direct marketing industry at both the rational and emotional level. These interviews lasted approximately 2 hours and were conducted in New York, NY, Chicago, IL, Los Angeles, CA and Washington, DC.

Most recently, we conducted a nationwide telephone study to obtain an up-to-date picture of how the public views privacy issues. Our survey was conducted late last week, on May 2-3, 2001. We contacted 617 respondents to participate in the 13-minute survey, the results of which we have prepared for you. The margin of error for a study of this size is +3.9 percentage points.

Findings from the two qualitative studies indicate that people make choices and form opinions based on personally held values. The rational elements of the decision-making process are important in supporting the emotional components they tap into. As long as individuals feel protected and that they have control, the physical benefits from sharing information satisfy emotional needs. In fact, we summarize the way people think about the need to provide personal information in this way: *I want to give what I want when I want, and I want to get what I want when I want.* In other words, consumers are willing to part with information they perceive as necessary to commence or complete a transaction of their choice.

There are categories of information consumers are willing to share in order to conduct a transaction and other personal information they believe should never be shared. In our most recent research, for example, the majority of people say they are "never comfortable" sharing their social security number, financial information, medical information or information about their children. These types of information are deemed sensitive and therefore individuals are less likely to share information which falls into the category of "not necessary" or "none of your business." Con-

versely, people are usually comfortable revealing their gender, age, education, occupation, hobbies and interests, and how they heard about the site.

There are actions businesses can take to make the information that is shared more secure, which would result in raising consumers' confidence to give personal information in the first place. For example, actions that make consumers more comfortable include: using industry services to opt-out of direct marketing and telemarketing lists, using technology to prevent identity theft, restricting access to medical and financial data for marketing purposes and communications campaigns about highlighting consumer rights and privacy protections. If businesses champion a series of safety and security measures, consumers would have a better sense of control and feel that by providing personal information they have made a smart choice, saving time and money.

The Internet, which is still a relatively new medium, is not completely understood by the public, even by many users. Most do not know how it operates. They know the Internet is a communication tool for receiving and providing information. However, they do not know how information travels over the Internet and who is at the other end of the monitor. It is a fear of the unknown that raises the level of skepticism for many consumers and reduces their feelings of control.

For example, most people will provide their credit card to a stranger to process a transaction at a traditional business or restaurant without concern for their personal credit data. These practices have a tradition of being secure and are therefore widely accepted. With a new medium such as the Internet, consumers' level of comfort is tied to their experience. Those who participate in Internet commerce tend to feel more knowledgeable about the Internet and more comfortable with providing personal information. Our research shows that as people have positive experiences with Internet commerce, their level of skepticism is diminished. Over time, as more and more people experience Internet commerce, the unknown nature of the medium will fade as it becomes more a part of our daily lives.

In summary, companies that voluntarily enact good privacy policies—ones that are easily understood by everyday consumers—can help comfort consumers that their information will not be abused. Industry can achieve this effectively through self-regulating policies concerning the collection, use, storage and exchange of personal information.

Thank you.

Mr. STEARNS. Thank you, Dr. Bauman.

Just as a general comment here, the tendency after listening to you is to want to ask you a lot about the Internet, but obviously your expertise is basically a polling of information, so we can't get into, you know, what would you do if you were a policymaker and X, Y, Z because you are on this area of trying to understand what the American people perceive about the Internet. And it is interesting that it seems to come in almost all your opening statements, that the public is not really educated. I mean, one of you folks has broken down the understanding for this to the people who are basically the "skeptics," the "pragmatists," and the people who just don't know. And the fundamentalists are 25 percent, they are the skeptics, and the pragmatists are the 63 percent, and the unconcerned are 12 percent. And how much should the Government protect these unconcerned, you know, is a very difficult question.

But I thought we will try, if we can, just to try and understand better what you are talking about in terms of the surveys, so let me just go to you, Mr. Rainie, and ask what you mean in your opening statement when you say "demographic context"? Could you mention—explain what that means? Your survey highlights that term.

Mr. RAINIE. Yes. Different people in different groups have different senses of the privacy issues. Parents are much more concerned than nonparents because of information that might relate to their children. Women show a greater degree of concern, for instance, than men on some issues because they just feel like they

are stewards of certain kinds of information that men don't feel as close to.

So, there is a hierarchy of information values—you have heard it from other witnesses, too. Health information, financial information, credit information, information about children, matters most to people, and it matters most to specific groups of people.

Mr. STEARNS. The problem is, as a legislator, are we here to try and protect the consumer even though they are uneducated? You know, the person who really uses the Internet, like somebody who is like my younger son who has been using it for many years, doesn't have any concern at all. And you observed that although Americans do not much like online traffic tracking and profiling, a lot of them take relatively few steps to stop it. You know, a person can find out how to prevent the cookies from coming in through the preference on their Web browser, or they could stop the keystroke monitoring, they could probably do that. They could also do encryption. But they just don't seem to be interested.

And so I guess is there something in the data that suggests why they have this fear but they don't take any action?

Mr. RAINIE. Well, I think they don't know the mechanism of how it is done, and I think in some cases it is expecting a lot of them to understand all the technologies that are at play, all the possible ways information can be gathered, bundled, disseminated and passed along. For some people, they are really into it and they are happy to be vigilant about checking privacy policies, be vigilant about checking the source of information, but for a lot of people that is a lot of work and they have got other things to do with their lives and they expect this technology to help them, not be an extra burden in their lives.

And so I am not sure that throwing all the onus on them is one that they would be happy with. Clearly, for them, tracking is a dirty word. They haven't yet begun to comprehend all of the ways that it is a benefit to them, or potential benefit to them. Transactions haven't been very explicit to them. I think a lot of their concern would go away if a better case were made about how that were done.

Mr. STEARNS. Dr. Westin, you indicated in your statement that nine out of ten Americans are concerned about the potential misuse of their personal information and that three-fourths of them say they are very concerned. What are they concerned about? I mean, can you give us specifically what their fears are?

Mr. WESTIN. More and more, as I said, identity theft is one of the things that is in the minds of the respondents.

Mr. STEARNS. Identity theft—they get their Social Security, they get their pin numbers and they start walking off with their money out of their bank accounts.

Mr. WESTIN. That is correct. And as I mentioned, one out of five households reported that there had been in their households someone who had been the victim of an identity theft. So, talk about harm as opposed to potential, one of the harms is that people perceive that if their telephone calling card can be obtained, if their credit card information can be obtained, their Social Security number can be obtained, that these are all the tools that the fraud artist can use.

One of the largest causes of people not getting mortgages today is that they have had an identity theft and have not been able to clear up in time their credit history, and we found that it takes between 1 year and 1½ years for somebody to overcome the harm done to them in their credit report and in their relations with retailers and charge card companies as a result of identity theft. That's an example of where people are connecting the collection of their personal information to a concrete harm that has happened to them or somebody they know.

Mr. STEARNS. Dr. Bauman, you know, this is just, as we point out, this Internet privacy concern or fear is not just on the Internet, but they also have it about their personal sense of information—they are worried about it so much so that we have passed in Congress the Gramm-Leach-Bliley Act and also HIPPA regulations. I don't know if you are familiar with those, but I guess the question is, consumers seem to have a general concern, and maybe they are pushing the issue more than legislators need to be worried about. Have you seen any change in consumer perception after we have passed these two major pieces of legislation, the HIPPA regulations and the Gramm-Leach-Bliley Act?

Ms. BAUMAN. Our research didn't specifically ask about pieces of legislation, so I can't speak to that directly, but our findings in both our qualitative and our quantitative surveys are very consistent with the other research that has been presented here today.

Mr. STEARNS. Mr. Taylor, you have cited, for example, that privacy is a potential landmine issue. Perhaps you could give me a worst-case scenario of what you mean by a landmine issue.

Mr. TAYLOR. Well, an example historically of where privacy did explode was in relation to credit and, to some extent, insurance, and it needs some highly publicized instance of somebody abusing somebody else's privacy for the landmine to go off.

Now, it seems to me that this could occur in terms of identity fraud, such as Dr. Westin has described. It could certainly occur in relation to discrimination for health insurance or life insurance or employment or credit. It could certainly go off if, for example, a public figure's use of the Internet to access pornography sites was highly publicized, that would certainly trigger a few angry calls. Or, indeed, if the volume of spamming got so intense you might expect to see more and more people saying let us make spamming illegal, as I believe faxing, cold faxing marketing is illegal.

Mr. STEARNS. Right now, I could not find the history on your using the public library in your hometown, what books you took out. Likewise, I couldn't find out what videos you have taken out over a number of years or any length of period. So, likewise, it seemed to me that Congress might have a responsibility here to say we want to prevent this keystroke monitoring to protect the consumer, even though the consumer probably has no concern themselves on what we are talking about. So, it is a combination of the chicken or the egg. I mean, should we educate the consumer and then protect him, or just protect him before we go out and educate him?

Mr. TAYLOR. Well, "should" is your decision, not mine, but historically I think that legislators have normally reacted after the



landmine has gone off, not before. That isn't to say that that is the ideal way of doing it.

Mr. STEARNS. Maybe just as a general question before I complete, and just ask yes or no. If Congress went ahead and instituted an Internet privacy bill and presented it, you know, the White House signing in the Rose Garden and everything, do you think that would give a higher level of confidence to the consumer so that he or she, those folks that are in the one category here, might help the Internet, might increase business if we, by Congress being a leader here, could actually bring more trust to the Internet and increase ecommerce business? Do you follow what I am saying? Just yes or no, or just a slight comment. Mr. Rainie. It is a little off your survey question, but it may be, after all this information, you might have an intimate or innate ability to say, yes, we think it will help ecommerce and give more trust, or not.

Mr. RAINIE. I am going to steal Dr. Westin's thunder by repeating what he said. Writing legislation before-the-fact and particularly off survey work is tricky business. One of the things that we tried to do in several of our surveys was walk respondents through to the point where they actually were facing the clearest policy choice that I think is frame for all of you, which is, do you want Government to do it, or do you believe businesses can self-regulate? And invariably, as we walked the respondents through these questions, they wanted to stop right at the point where they were in charge. They wanted to assert that as the primary value that they want control over their identities, they want to have a seat at the table when any decisions are made, and we couldn't get them to help sort it out because they feel so disenfranchised as things stand right now.

Mr. TAYLOR. Mr. Chairman, unlike, I think, the other polling organizations represented here, Harris Interactive conducts more surveys online than in person or by telephone, and we are very strong advocates of Federal legislation to establish high standards to which we want to adhere, and to have a level playing field.

So, for our business, we think that legislation and regulation would be very good for our business and for the consumer.

Mr. WESTIN. My other hat is a privacy expert, not a survey expert, and I think the time has come, the surveys would suggest, for what could be called "framework" legislation for online privacy. What I mean by that is that if you set in motion requirements that Web sites post privacy policies, step one, that you provide that the individual is well informed to exercise the choices that those policies provide, whether it is opt-out or clicking to opt-in. And, third, whether you have supervisory jurisdiction in a body like the Federal Trade Commission, for example, that under its existing Section 5 jurisdiction can look for prosecuting or issuing cease-and-desist orders for any Web site that violates its promises, you would have put in place what I think the Chairman is talking about when you ask what would it take to give confidence for people to use the Internet.

It worries me if there would be any kind of legislative standard to opt-in as the requirement or the default because I think that all the survey research shows that consumers want choice, but they don't want somebody to dictate what their choice is. And I think

notice and choice, to me, especially in the Internet environment, means stating what the Web site wants the information for, how it will use it, and to give the individual a choice then to opt-out or not to do business with the Web site.

So, I would argue that all the survey material tells you that the public is seeking tools for confidence. What Congress can do, in my judgment, is to provide a piece of framework legislation that allows then the good businesses to have good relations with the consumers who come to their Web sites, but allows consumers not to do business with those companies that are not posting the kind of privacy policies that the consumer wants to expose themselves to.

Mr. NEWPORT. Mr. Chairman, Dr. Westin has good points. My initial reaction to your specific question was, I would not anticipate an enormous change if Congress did pass the legislation and it was signed in the Rose Garden of the White House. At this point, I don't think there is dramatic evidence that a lot of consumers are staying off the Internet or in any way restricting their behavior because of concerns over privacy except when we pollsters ask those questions, so I don't think at this point there is a pent up demand to use the Internet that once this legislation was signed we would see dramatic change, at least initially.

Ms. BAUMAN. I agree with Mr. Rainie that our research finds that the public wants to retain control of their personal information and decide which information to divulge and when.

To some degree, they can't be in full control without understanding their options and tools available to them in controlling these items of personal information.

In our qualitative research, which was very in-depth, we heard from consumers that they want businesses to self-regulate, they think that is important, but they also want businesses to collaborate with Government on these efforts, and that way builds trust between the consumers and the companies.

Mr. STEARNS. My time has obviously expired. Mr. Doyle.

Mr. DOYLE. Thank you, Mr. Chairman. It just seems to me—I mean, I remember the first time I gave my credit card online, there is a certain element of risk-reward. I think the public in general is just somewhat schizophrenic on this whole idea of what they really want with privacy. It seems to me, you know, if you are dealing with sensitive financial data or medical information, I think there seems—I mean, there seems to be more of a tendency of people wanting privacy there yet, on the other hand, you hear retailers say, “Well, one of the ways to prohibit spamming or eliminating junk mail on the Internet is for us to learn more about the people that we are trying to serve, and we can reach a point where you are only receiving the kind of advertisement that you want to receive because you have indicated what some of your buying preferences are, or those types of things.”

You go into a supermarket in Pittsburgh and you shop at Giant Eagle, they have got a thing—I think it is called the Advantage Card or something—that basically they scan your card going in, and the enticement is they give you some discounts on their products, but then they start to learn about your buying patterns, and they tell us, well, that helps them better serve the people that walk

into the store because they know what to order, when to order it, and what you are going to buy.

So, you see these tremendous benefits on the one hand where retailers can tailor-design advertising and products to people based on what they say they want. On the other hand, there is a real worry out there about giving information about your medical history. And I just wondered, does most of your surveying show that the greatest concern is really in the areas of medical privacy and financial records, and is there maybe a need for us to look more closely or deal more strictly with those areas as opposed to retail shopping or eBay buying? I mean, I am just wondering what—is that where the major concern is when you are talking with your—and just generally to the panel.

Mr. NEWPORT. In one survey we did last fall, we gave people a list and, indeed, financial and health care information was at the top of the list of concerns. The things which were lower were not so much retail—I am not sure they were on the list—but employment history and educational background history, where you had degrees and things like that, seemed to be of much less concern.

But you mentioned, Congressman Doyle, the two magic words, I think—financial and health.

Ms. BAUMAN. Our study also found that, that was conducted late last week—medical information, financial information. The great majority of the people said they were “never comfortable” providing that information.

Mr. WESTIN. Our surveys show that one of the apprehensions people have is that the mergers that have brought together banks, credit card companies, insurers and investment firms, has broken down what once was a great protection of privacy, which was the “silo” effect that your information was in one silo and, because of competitiveness and industry separation, it wasn’t shared.

There is a great concern today that the mergers and acquisitions have opened up much larger pools of sharing of information, and that is why Congress in Title 5, in the Gramm-Leach-Bliley Act, tried to deal with the difference between sharing information outside with affiliates, and the choices that individuals are looking for in terms of the way their information circulates inside those merged institutions.

Mr. RAINIE. We found in a survey of people who use the Internet to get health information, that even in those circumstances where they are getting sensitive information online, they are adamantly opposed, for instance, to having their medical records put online. Sixty percent of those health seekers said “We would not feel comfortable having our health records online even at a password-protected, secure Web site.” We put that in the questionnaire to give them some level of assurance of it. Their default thought is this is way too sensitive. The harm that can come from improper disclosure of this is way too grave for me to risk it.

Now, my guess is that over time, if people’s doctors educate them and say to them, “If you put your records online, the likelihood of a medical error being made when you are in an emergency situation or a loved one is in an emergency situation, that level of concern might go down,” but no one in the people we were talking to had a great sense that that was the tradeoff. All they thought was,

"My gosh, this is horrible, and horrible things could happen to me or a loved one if this kind of information were disclosed."

Mr. TAYLOR. I agree with what you have heard from the other witnesses. We asked last year, people to say how concerned they were about different kinds of information not being protected, and the top five items were credit card number, Social Security number, financial assets and information about finances, name and address so that people could actually reach me, and, finally, medical and health records.

Mr. DOYLE. Thank you. Mr. Chairman, I see my time is up.

Mr. STEARNS. I thank my colleague. Mr. Shimkus.

Mr. SHIMKUS. Thank you, Mr. Chairman. Mr. Doyle has got to learn how to be a Ranking Member, and don't you know you get to go way past your time like the Chairman.

It is great to have you. I keep thinking of Richard Dawson saying, "Survey says," boom, "Survey says," and that brings up a little bit of controversy about this hearing of should we be making public policy based upon surveys. Of course, our President says no, but many of us use polling data quite frequently. In fact, Wirthlin Worldwide is mine, and I would like to welcome Dr. Bauman. I know she doesn't deal with me or in that spectrum, but there is a lot of credibility in what you all bring to the table, and I appreciate you all being here today.

Dr. Westin, I want to follow up on a comment that you made, first of all. You said one in every five people have been a victim of identity theft. That probably needs some more clarification. That is two out of every ten people.

I have heard of identity theft because I serve on this committee, it is my fifth year. But I bet you I could go through quite a few people before I know of anybody. I don't know of anybody in my immediate realm, and I come from a family of seven kids, or identity theft. Can you help us and tell us where you get this one in every five?

Mr. WESTIN. We asked a question that said, "Have you or a member of your household been the victim of an identity theft, which is defined as someone assuming your identity to charge goods or services, or assume your identity for financial gain." Keep in mind then, that that could be somebody who watches you put in your telephone calling card at an airport, or somebody who has obtained your credit card in the ways we have been discussing. So, it is not one out of five adults or people, it is one out of five households.

In my own household, almost every member of my household has had one or another of these happen—credit card charge pops up on an Internet account or a credit card account. Twice I have had my telephone calling card obtained by somebody who must have seen me putting it in in an airport.

So, I don't think that that is out of line with some figures that the Treasury Department, the Secret Service and others have put out recently, indicating how enormously widespread these kinds of identity thefts have become.

So, it is true that this is self-reporting, and survey people always are cautious when people report things and you don't have objective verification. But if you ask in a survey has this happened to

you, and there is no shame in saying it has or hasn't, and there is no advantage in saying it has or hasn't, and if the question really described concretely what you mean by identity theft, I think that you have to take the finding fairly seriously.

Mr. SHIMKUS. Does anyone, based upon their research, corroborate the two out of ten, or—as far as identity—not to cause a fight between the brethren here and the industry, but anyone want to add to that?

Mr. RAINIE. We have data which is similar to that, so we will corroborate, yes.

Mr. SHIMKUS. Thank you. Survey says two out of five panelists agree. What is a better judge of the impact of this? We are mostly focusing on consumers or mostly ecommerce. I mean, we will go into a whole brave, new world when we deal with medical privacy. My opening statement talks about the conflict between the two. I don't know if they can be handled similarly. But on the ecommerce end, what is the ability of a projection on business based upon having good privacy protection versus real-world data on what really occurs in a market? A survey is a projection. Real data as far as sales and commerce is a real deal.

I think, Dr. Newport, you mentioned that were we to move in with some of these privacy provisions—correct me if I am wrong—your point was we may not see an automatic jump in ecommerce, is that correct?

Mr. NEWPORT. Yes, that is what I said. I don't know that we have strong evidence which suggests that lots of people are restraining from buying things or doing other things on the Internet because of concerns about privacy. And as I mentioned in some of my data, although when we asked people "Are you concerned" and they say "yes," it is not, as others have mentioned, a highly spontaneous problem that comes up when we talk to people in our polling and, therefore, that is why I think several of us have said right now I am not sure that there is an enormous front-runner concern over it.

Mr. SHIMKUS. Dr. Bauman, I have one—the question that I wanted to ask Dr. Bauman, and anyone else can add—in your questioning, did you address the additional cost-benefit analysis that may occur, and what would the consumer accept as reasonable cost for protection, or was there in essence no boundaries?

Ms. BAUMAN. That is an interesting question, Congressman. We didn't—

Mr. SHIMKUS. Yes, it is my job.

Ms. BAUMAN. We didn't exactly specifically go into the cost-benefit analysis. What we did ask them about is if certain provisions were in place, would that make you more comfortable and more supportive of industry engaging in self-regulation, and overwhelmingly they said yes to all of those various types of self-regulating policies and actions.

Mr. SHIMKUS. Anyone else want to add—and my time, Mr. Chairman—on the cost-benefit analysis of moving forward?

Mr. WESTIN. In 1994, we did a survey of how consumers felt about consumer reporting. What we found was overwhelmingly consumers accepted the fact that if credit grantors did not get good credit information about payment of bills and bankruptcies and

liens, that it would cost more for every consumer, it would take much longer for their applications to be approved, that minorities would not get the advantages that they seek because they would be not enhanced in any way in the marketing to them, and so forth.

So, I think consumers, in fact, are quite accepting of the benefits that come from information being used for quality risk assessment, and in the tradeoff there, they are very aware that there are costs in not having information for making these kinds of judgments.

Mr. SHIMKUS. Thank you very much. Mr. Chairman, I yield back.

Mr. TAYLOR. Could I just add one note. At the risk of sounding arrogant, we are very, very proud of the very strong privacy protection policy we have for our online surveys, which I described earlier, and it is interesting that in our telephone surveys we get about 2 percent of people who will willingly self-identify as gay, lesbian or bisexual. When we do this with in-person surveys with a ballot box so that the anonymous form is put in the ballot box, that goes up to 4 percent. In our online surveys, we are consistently getting 6 percent who self-identify in that way. We believe it is because they trust us not to reveal that information to anyone, and we think they would not do so if we did not have strong privacy protection.

Mr. SHIMKUS. Mr. Chairman, if I could.

Mr. STEARNS. Sure.

Mr. SHIMKUS. Is that because on your survey when it pops up, you have got, as was stated before, you post the privacy provisions and that you believe that the consumer or the individual will be well informed and will make a judgment based upon the trust they put in your ability to keep that information private?

Mr. TAYLOR. Yes.

Mr. SHIMKUS. Thank you, Mr. Chairman.

Mr. STEARNS. The gentleman from Tennessee, Mr. Bryant.

Mr. BRYANT. In this committee, I am going to go by John Shimkus from here on. You have your identity stolen now.

I want to welcome the panel and apologize for being late. We just landed from back home, and so I have kind of caught up with some of what you are saying. I do appreciate, as Mr. Shimkus does, your value in polling and what you do add to this hearing.

I would suspect, from personal experience, a lot of the concern that people would have online would be just—many haven't developed a comfort zone yet in the use of the Internet, and aren't as skilled as they believe many others are, and they have a fear, I am sure, of hackers and things like that getting in the records, but probably, by and large, I think it is more as people get comfortable using it and their own abilities and realize that it can be safely used with adequate protections, that you will find the so-called consumer confidence going up in this.

I am wondering—I think, Mr. Taylor, if I could ask you—is there something that the companies can do in making a compelling case to these consumers that in exchange for this personal information, there is a benefit, a consumer benefit there, and how can they do this, if they can?

Mr. TAYLOR. Well, I think that you have heard from several of us that they certainly can do that and that they should do that,

and it is necessary because, in general, people are often unaware of the benefits themselves as opposed to the company they are dealing with of providing that information.

If you take, for example, information about automobile accidents for insurance, people realize pretty quickly that if you obtain that information and if you have got a good, accident-free record, you will get a better insurance rate, but initially that probably had to be explained to people. So, you have to spell out the benefits and they have to be real benefits, and I would say that sometimes they may not be real benefits, in which case you have got a problem.

Mr. BRYANT. In sort of a follow-up to that, your work for PLI indicates that the presence of privacy statements and seals are valued by the public. Further, your work indicates that consumers rarely take advantage of these privacy tools. In essence, is it accurate to say that if the consumers see privacy statements and seals, that they are less likely to leave a site than not, notwithstanding whether the company actually provides technology solutions to help the consumer?

Mr. TAYLOR. Yes, it is clear that the posting of privacy policies has a positive impact, even though, in some of our surveys, very few people are actually reading all of them, and there is also a fair amount of skepticism as to whether companies actually enforce their privacy policy. So, it is both a question of having good policies and displaying them and, of course, enforcing them.

Mr. BRYANT. Dr. Bauman, we have talked about this issue a little bit, but I want to follow up in terms of Gramm-Leach-Bliley and HIPPA. It seems that consumers are most concerned about sharing their personal sensitive information such as medical or financial information. Many of these poll results have indicated that consumers believe that legislative action is needed. Have you seen a change in consumer confidence as a result of the passage of these bills, Gramm-Leach-Bliley and the HIPPA regulations, and, if not, would you expect to see a change? These basically incorporate privacy protections. Do you see anything out there in your polling results that would reflect the passage of this legislation?

Ms. BAUMAN. Like I said before, we haven't specifically asked people about pieces of legislation or even their awareness of them, so I can't speak directly to that question, although it is definitely a logical one that could be tested.

People generally are uncomfortable providing that type of information, and when we do our in-depth qualitative work, we find the two values that emerge here are people wanting that peace of mind protecting their personal security, and also having that personal control to determine that destiny.

So, I would think that those two pieces of legislation would be comforting, although our research hasn't directly tested it either before or—so, therefore, I can't speak about it changing over time either.

Mr. BRYANT. This is, I think, a question for Dr. Westin. Your site evidence that consumers fear privacy keeps them from participating in the Internet or going on the Net. However, you state in your testimony that surveys to-date haven't been helpful in determining what consumers want in terms of legislation to protect privacy.

Mr. WESTIN. Yes. If I could go back to your earlier question, Congressman, isn't it important to know that Gramm-Leach-Bliley is just beginning to kick in in terms of behavior toward consumers? It is the flood of notices that people are now getting from the banks, insurance companies, an avalanche of them, two or three dozen for a typical family, very complicated. Federal regulators require that you say things that nobody would ever want to say to a consumer, but you have got to follow the regulations both with a litany of what they tell you you must do.

So, I don't think we know yet how consumers are reacting to the Gramm-Leach-Bliley structure of rights. It is going to play out as they begin to understand the way their information is going to be used and what rights they have.

As far as HIPPA is concerned, it is going to be 2 more years before those regulations go into full effect, so you can't really expect consumers to feel anything yet about the medical and health privacy. Most of the providers are just beginning to get themselves organized to bring in compliance with that in 2 years.

So, especially in the survey sense, I don't think you will find much knowledge on the part of consumers about those two interventions by Congress, and only one is an enacted, in-force regulation, the other is something that has to play out across 2 more years.

As to the question you asked me, I think that what I was trying to say was that in crafting legislation, putting the choices between, let us say, an opt-in or an opt-out regime into a survey in a way that you give much credence to the response of the individual, it is very difficult because that is a question in which you are really struggling to figure out what the effects would be of one regime in terms of the confidence of consumers to business and the business model, as to how they are going to make money on the Internet.

So, what I was trying to suggest is that consumers can express concern, but when legislators go to decide what the way to respond to that concern is, that is where legislative skills and policy analysis and cost-benefit analysis is what you have to bring to bear. I have never seen a good survey on cost-benefit analysis in privacy that I would put much credence in.

Mr. BRYANT. Thank you, and I thank each member of the panel for your appearance and testimony today. Thank you, Mr. Chairman.

Mr. STEARNS. Thank you. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. I wanted to follow up on what Dr. Westin was saying, especially your comment about the Gramm-Leach-Bliley notices. Probably like a lot of people in this room, we have been getting them. I think to myself, it is a good thing it is an opt-out as opposed to an opt-in because we probably have all kinds of things getting canceled because after a while you just—have any of you actually read those notices in detail?

Mr. WESTIN. I have to for my job.

Mr. WALDEN. If you weren't required for your job to have read them, would they—it seems to me we have raised the issue a bit, but in a very complex, grammatical way. Does anybody want to comment on the effect of that notification process?



Mr. TAYLOR. There is an interesting analogy. In the 1980's, I think, and early 1990's, the pharmaceutical industry was under a great deal of pressure to put in patient package inserts describing the risks and the potential side effects of medication. This was not something which large numbers of the public were demanding, but there were activists who were demanding it, and it was the reluctance of the industry to do this which made people very critical of them and very suspicious of them. They now are required to do it. Our data shows that almost nobody reads them, but the fact that they are there is a little bit reassuring, and the criticism of the industry has died down, so I actually think it was good for the industry even though they fought against it.

Mr. WALDEN. Interesting. All right. Reading through the testimony and some of the data, am I correct in summarizing that the bulk of people don't look to the Federal Government for new legislation here, they would rather control their own destiny on the Internet, control their own information?

Mr. WESTIN. I think it is complicated because sometimes survey research puts the question this way: Do you think Congress should enact legislation to protect your privacy on the Internet, and that is a motherhood-type question and it is not surprising that 60 or 70 percent will say, yes, they are in favor of it. But if you give them alternatives, if you say: Would you rather have an option to make your choices as to how your information is used, or do you think business ought to do this as a matter of self-regulation and Government should just police those who do not do it—

Mr. WALDEN. The hackers and the violators.

Mr. WESTIN. Exactly—you get a very different result, which suggests that it is in the framing in the question as to whether you make it motherhood or whether you give options and choices, that you really will get your data back.

Mr. NEWPORT. And, Congressman, even with the motherhood effect—Mother's Day is coming, that is an appropriate point—we only had half of the individuals, regular Internet users, who said, yes, the Federal Government should be more involved than they are currently. Our interpretation contextually was that that is a fairly low number.

It is easy—I think that Dr. Westin is absolutely correct—it is easy for a respondent to say, "Well, of course, Government should do more", and the fact that only half said yes, the Federal Government should do more, to us suggested that there was not a strong clamoring on the part of constituents for the Government to intervene.

Mr. WALDEN. Well, isn't it accurate, too, that a very small percentage of users even understand cookies and their ability to do anything about that? I read that in some testimony here.

Mr. RAINIE. Yes. Our finding is that more than half of Internet users and a significant portion even of veteran users do not know what cookies are, do not know the basic mechanisms of tracking. And so they would appreciate more knowledge about that, and they would appreciate a much better explanation of the virtues of what they get out of cookies.

Mr. STEARNS. Is the gentleman complete?

Mr. WALDEN. I would yield back. Thank you, Mr. Chairman.

Mr. STEARNS. I thank the gentleman. We are going to close here. I think this member, this Chairman, is left with a little bit of ambivalence here because we were hoping in June to try to draft something. We feel from the previous hearings that although we might be ahead of the consumer, we thought it would be worthwhile to put something as a marker and not drop it as a bill, then get the response of people in industry—the software, the hardware companies, consumers—and try to get feedback on what they felt. And we thought we would do sort of a minimalist type of approach because the perception is that, I think even from the surveys, that a lot of people have some concerns, as Dr. Westin pointed out.

But at this point, as many of the Members said, you really can't necessarily develop legislation based upon a survey, but there is the possibility of a landmine, and that is what we have to weigh. We haven't had any consumers running to us down in our districts saying, "Please, please give me an Internet privacy bill," but I innately feel that if we did have provided a bill of some type and provided a consistency across the Internet for protection, and the consumer thought he or she had that, it would certainly increase, I think, ultimately, the consumer using ecommerce as a form of business.

And so I think the hearing today has pointed out some of the ambivalence that we all felt. I think you have done a superb job of giving us your opinion on this, and we appreciate your time. And with that, the subcommittee is adjourned.

[Whereupon, at 4:40 p.m., the subcommittee was adjourned.]